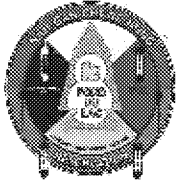


# Fond du Lac Band of Lake Superior Chippewa

## Resource Management Division

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*Administration*  
*Conservation*  
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*Forestry*  
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*Natural Resources*  
*Wildlife*

Howard D. Markus, Ph.D., P.E.  
Research Scientist 3/Aquatic Ecologist  
Minnesota Pollution Control Agency

February 27, 2012

Re: Minnesota's Draft 2012 303(d) List of Impaired Waters

Dear Dr. Markus,

Thank you for the early notification of the State of Minnesota's draft 2012 303(d) list of impaired waters, and the opportunity to comment on the list. I was glad to be able to attend the public meeting scheduled at the MPCA office in Duluth in January, to learn more about your agency's process in collecting data, moving through the assessment process, and reaching internal consensus about decisions to list waterbodies as impaired. I was also able to follow up from that meeting with additional meetings and telephone calls with MPCA staff to discuss in more detail the data collection and assessment process for several waterbodies within the external boundaries of the Fond du Lac Reservation, for which we have extensive, long-term data to support our tribal water quality standards and assessment process. We had substantial discussions about sampling site locations and parameters measured, and reached some conclusions, I believe, about the importance of accurate waterbody classification to ensure that data collection and assessments are appropriate for the type of biological community (benthic invertebrate or fish) a lake or stream is assumed to support. Hopefully we can continue to work collaboratively in the future on monitoring and assessments, and strengthen both our programs in the process.

In addition to Fond du Lac's interest in your agency's monitoring and assessment activities on or near the reservation, we are also interested in recent data collection and subsequent determination of aquatic life use impairments (fish and aquatic invertebrate communities) on a number of waterbodies within the St. Louis River, upstream of the reservation. Many of these stream segments and lakes have been impacted by historic and current mining facilities, for which we have been actively reviewing and commenting on permits and other environmental review processes in recent years. We are specifically interested in the stressor identification process just getting underway within your agency, to determine the source(s) contributing to these newly-identified impairments, and leading eventually to a restoration process such as a TMDL. Since the MPCA, Wisconsin DNR, EPA Region 5 and Fond du Lac are currently engaged in a TMDL study for the St. Louis River, focusing on toxics such as mercury in fish tissue and legacy

industrial contamination in the St. Louis River Area of Concern, your agency's stressor identification process could be very timely and informative. Efforts are underway with the agency partners and local/regional experts to determine additional data needs for the TMDL study, and there may be some opportunities to coordinate between the stressor identification and TMDL processes such that data collection and modeling efforts are not unnecessarily duplicated. I recently spoke with Jeff Jasperson of the MPCA Duluth office, and have shared some recent peer-reviewed publications and EPA guidance documents that relate to aquatic life use impairments within mining-impacted watersheds.

Our final comments are related to the puzzling lack of listed impairments for wild rice waters. The MPCA and Minnesota DNR both have fairly extensive, although not comprehensive, lists of waters that support or have historically supported wild rice. Through our review of numerous EISs and draft permits for taconite and other hard rock mines, tribes have provided additional information and data about natural stands of wild rice that were formerly harvested by tribal members but now are substantially diminished or extirpated. Mining facilities have been required to monitor for sulfate in their permitted discharges for many years, and the agency is well aware of many wild rice waters that exceed the sulfate criterion established in Minnesota Rules in 1973 specifically for the protection of wild rice. We look forward to future consultation with the agency during its triennial review process, examining both the designated use definition, applicable and protective criteria, and fully applying all appropriate processes under the federal Clean Water Act to protect this critically important cultural and subsistence resource. It is our position that the state should be including impairments for this designated use during its development of the impaired waters list each biennium.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Schuldt". The signature is written in dark ink and is positioned above the printed name.

Nancy Schuldt, Water Projects Coordinator